IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.1052 OF 2004

Shri Hanumant Kanhoji Dhole : Petitioner

V/s.

Shri Dattatraya Govindrao Dhole : Respondent

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Mr.P.S.Dani for the petitioner.

None present for the respondent.

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CORAM : S.A. BOBDE, J.

September 23, 2005.

P.C.:

1. Notice for final disposal was issued by this Court on 4.7.2005. Though the respondent was served, none appears for him.

2. In the circumstances, Rule. The rule is made returnable forthwith.

Heard the learned counsel for the petitioner.

3. The only point urged on behalf of the petitioner is that the Maharashtra Revenue Tribunal has overlooked the fact that the appeal before the S.D.O. was barred by

limitation. From the order of the S.D.O., it is clear that the S.D.O. entertained the appeal in respect of mutation entry no.1207 which was certified in the year 1991. There was obviously a delay of about 33 years. Though this point was raised by the petitioner, the S.D.O. does not seem to have dealt with it, since the S.D.O. rejected the respondent's appeal on another point. Thereafter, the respondent preferred a second appeal before the Addl. Collector, Pune, who decided the appeal by ignoring the fact that the respondent was challenging the mutation entry no.1207 of the year 1958. The learned Addl. Collector allowed the appeal of the respondent and set aside the order dated 3.6.1993 passed by the S.D.O. in R.T.S. Revision Application NO.152/1991.

4. The petitioner thereafter preferred a revision before the Addl. Commissioner, Pune Division. The learned Addl. Commissioner has dismissed the petitioner's revision without adverting to the point of limitation. There appears to be nothing on record to show that the aforesaid delay of about 33 years in approaching the S.D.O. against mutation entry no.1207 certified in 1958 was condoned.

5. This is obviously an error of law apparent on the face of the impugned order. The impugned order is, therefore,

set aside. The Addl. Commissioner, Pune Division, is directed to decide the revision afresh, after considering the question of limitation.

6. The rule is made absolute in the above terms.

S.A. BOBDE, J.